

PART 8. COMPLAINTS

R 340.1851 Intermediate school district's responsibility for investigation of complaints; report.

Rule 151. (1) An intermediate school district, upon receipt of a complaint, shall investigate the complaint under these rules and the procedures approved by the state board of education. The investigation shall include direct communication with the complainant or the complainant's authorized representative. The complainant shall be informed of the specific procedures for conducting the investigation, filing reports, and appealing the conclusions contained in the investigation report. The investigation shall be completed and a report shall be filed by the intermediate school district within 21 calendar days after the date of receipt of the complaint. The report shall be filed with the complainant, the local school district or public school academy, if applicable, and the department. The report shall contain information as specified in procedures approved by the state board of education and shall contain notification of the complainant's right to appeal the conclusions of the investigation and to have the department review the intermediate school district's decision on the complaint.

(2) The intermediate school district may contract with an independent agent to conduct the investigation or shall appoint a person who is a member of the special education staff to be responsible for investigating complaints under this part. The person shall not have administrative authority over programs or services against which a complaint may be filed. Copies of this part and the procedures approved by the state board of education shall be made available by the intermediate school district for distribution to its employees, the employees of constituent local school districts, the employees of constituent public school academies, the public, and other agencies operating special education programs and services.

(3) An intermediate school district receiving a complaint under its jurisdiction shall, during the pendency of any proceeding stipulated in this rule, require any agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint if, in its judgment, not doing so may constitute a violation of the student's due process protection or if so directed by the department.

R 340.1852 Department responsibilities for processing complaints and conducting state investigations.

Rule 152. (1) The department may, for good cause, investigate a signed, written complaint under the procedures approved by the state board of education, regardless of the status of the investigation under R 340.1851.

(2) Upon receipt of a complainant's appeal for review of the intermediate school district's decision on the complaint, the department, under the procedures approved by the state board of education, shall do all of the following:

(a) Carry out an independent on-site investigation if the department determines that an investigation is necessary.

(b) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

(c) Review all relevant information and make an independent determination as to whether the educational agency is violating any of the provisions of law specified in the definition of "complaint" in R 340.1701a(c).

(3) The department shall issue a written report to the complainant and to the educational agency against which the complaint was filed that addresses each allegation in the complaint and contains all of the following information:

(a) Findings of fact and conclusions.

(b) The reasons for the department's final decision.

(c) Procedures for effective implementation of the department's final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance.

(4) The intermediate school district is responsible for assisting the agency in violation, for monitoring progress of the corrective action, and for informing the department when the corrections have been completed.

(5) Proof of compliance shall be submitted by the educational agency that was in violation within the time line specified in the directive for correction.

(6) Upon failure of an educational agency to correct known violations of law, upon failure of the educational agency in violation to cooperate with the department or the intermediate school district during the conduct of its investigation, or upon known falsification of fact or continued repetition of similar violations, the state board of education shall do 1 or more of the following:

(a) If the educational agency in violation is a local school district or a public school academy, then the state board of education shall direct the intermediate school district board to provide complying programs and services as stipulated in 1976 PA 451, MCL 380.1702.

(b) If the agency in violation is an intermediate school district, the state board of education may withdraw the authority of the intermediate district to operate a program in noncompliance and simultaneously require the local district of residence to place the affected student or students in an appropriate program.

(c) Withhold federal funds under section 1413(d)(1) of the individuals with disabilities education act of 1997, 20 U.S.C. §1413(d)(1).

(d) Apply other penalties, as stipulated in 1976 PA 451, MCL 380.1 et seq.

(e) Withhold state funds under 1979 PA 94, MCL 388.1601 et seq., or any other governing statute.

(f) Withhold, withdraw, or suspend such endorsements, approvals, credentials, grants, or authorizations pertaining to special education personnel or projects that the state board of education or its designee had authority to grant as authorized by, and in accordance with, the procedures required by law.

(g) Seek enforcement in a court of appropriate jurisdiction of the corrective action determined appropriate.

(7) The state board of education or its designee, during the pendency of any proceeding under this part, shall require any educational agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint if, in the judgment of the state board of education or its designee, not doing so constitutes a violation of the student's due process protections.

R 340.1853 General responsibilities of all agencies for processing complaints and investigations.

Rule 153. (1) The term "complaint" is defined in R 340.1701a(c). All public educational agencies shall receive allegations of violations of state or federal regulations pertaining to special education. If the allegation is made orally, the recipient agency may take formal or informal action as necessary to resolve the situation in compliance with applicable provisions of law, but, at a minimum, shall immediately do all of the following:

(a) Inform the person making the allegation that he or she has a right to file a written formal complaint with the appropriate intermediate school district or with the department and to have that complaint investigated in accord with this part and procedures approved by the state board of education.

(b) Inform the person making the allegation that if he or she wishes to delay filing a formal complaint so that an informal resolution may be attempted, he or she retains the right to file a formal complaint if the informal attempts to resolve the concern in a timely manner are unsuccessful.

(c) Provide the person making the allegation with a copy of this part and the state board of education's procedures pertaining to complaints and offer to assist the person to file the complaint.

(2) A person claiming to be acting on behalf of a complainant may be required to provide evidence of that authority.

(3) Complaints are initially investigated by the intermediate school district. At its discretion, the department, for good cause shown, may initiate a complaint or may conduct the initial investigation of the complaint instead of requiring the intermediate school district to investigate the complaint initially.

(4) A time limit of 60 calendar days after a complaint is filed is allotted for the intermediate school district to complete the investigation responsibilities under R 340.1851 and for the department to complete its review as specified in R 340.1852.

(5) An extension of time specified in this part may be granted by the department only if exceptional circumstances exist with respect to a particular complaint. A denial of an extension request is final.